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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,383	07/01/2005	Fumihiro Goto	00826.023428.	6331
5514 7590 03/24/2009 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
MISLEH, JUSTIN P				
ART UNIT		PAPER NUMBER		
2622				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/541,383

**Applicant(s)**

GOTO ET AL.

**Examiner**

JUSTIN P. MISLEH

**Art Unit**

2622

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-6, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 2 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, 3, 6, 8 and 9** are rejected under 35 U.S.C. 102(b) as being anticipated by Miyazawa (US 6,464,317 B2).

The Examiner respectfully notes Claims 1 and 9 appear to be corresponding apparatus and method claims respectively. Accordingly, for the sake of brevity, the claims will be rejected together using the language of Claim 1.

3. For **Claims 1 and 9**, Miyazawa discloses, as shown in figures 1, 3 and 8, an image supply device (9a and 9b) used in a recording system in which the image supply device (9a and 9b) and a recording apparatus (1) communicate with each other via a communication interface (82), and image data is transmitted from the image supply device (9a and 9b) to the recording apparatus (1) and recorded (see column 5, lines 58-63), characterized by comprising:

determination means (CPU 81) for determining whether a type of the recording apparatus (1) is a type capable of restarting recording in a case where a recording process by the recording apparatus is interrupted (Step S71 in figure 8; see Examiner's note below);

instruction means (CPU 81) for instructing the recording apparatus to restart recording in a case where said determination means determines that the type of the recording apparatus is the type capable of restarting recording process (Step S78 in figure 8); and

control means (CPU 81) for controlling to designate recording subsequent (Steps S62 and S63 in figure 8) to recorded image data in a case where said instruction means (CPU 81) instructs the restart of recording process (Steps S62 and Step S63 take place after the restarting operation in Step S78).

Miyazawa discloses determining whether the recording apparatus is capable of restarting printing in case it is interrupted to due to insufficient battery (see Step S71 in figure 8). The Examiner respectfully notes that the act of determining whether or not the recording apparatus will be restarted or not, as in Step 71 in figure 8, presupposes “determining whether a type of the recording apparatus is a type capable of restarting” as recited in the claim language.

4. For **Claim 6**, Miyazawa discloses, as shown in figures 1, 3 and 8, a recording system in which an image supply device (9) and a recording apparatus (1) communicate with each other via a communication interface (82), and image data is transmitted from the image supply device to the recording apparatus and recorded (see column 5, lines 58-63), characterized in that:

determining (Step S71) whether a type of the recording apparatus is a type capable of restarting recording in a case where a recording process by the recording apparatus is interrupted (Step S71 in figure 8; see Examiner's note below);

instructing from the image supply device (Step S62) to the recording apparatus (1) so as to restart the recording process (Step S78), in a case where the type of the recording apparatus is determined to be the type capable of restarting recording process (The Examiner respectfully

notes printing is determined in accordance with the DPOF stored on the image supply device; see column 9, lines 37-45. This fact alone requires the image supply device to ultimately control all printing operations), and

instructing from the image supply device to the recording apparatus on recording subsequent to the recorded image data together with the recording restart instruction. (Steps S62 and Step S63 take place after the restarting operation in Step S78).

Miyazawa discloses determining whether the recording apparatus is capable of restarting printing in case it is interrupted to due to insufficient battery (see Step S71 in figure 8). The Examiner respectfully notes that the act of determining whether or not the recording apparatus will be restarted or not, as in Step 71 in figure 8, presupposes "determining whether a type of the recording apparatus is a type capable of restarting" as recited in the claim language.

5. As for **Claims 3 and 8**, Miyazawa discloses, as shown in figures 1, 3 and 8, where the recording process includes a first recording process based on a DPOF file (Step S56) and a second recording process performed by designating each image file ("normal print mode"; see column 9, lines 47-51), and said control means (CPU 81) designates recording of an image file subsequent to the recorded page of the DPOF file for the first recording process (Steps S76 and S77), and designates recording of an image file subsequent to the recorded image file for the second recording process ("normal print mode"; see column 9, lines 47-51).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 4 and 5** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Miyazawa (US 6,464,317 B2) in of **Official Notice** (MPEP § 2144.03).

8. As for **Claims 4 and 5**, Miyazawa discloses where the image supply device can be something other memory cards (9a and 9b), such as a PC or video reproducing device (see column 5, lines 57 - 63); however, Miyazawa doesn't disclose where the image supply device is a digital camera or where the connection between the camera and the recording apparatus is a USB connection.

However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of incorporating a digital camera and corresponding USB connection as the image supply device in a recording system are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have replaced the image supply cards (9a and 9b) with a digital camera and USB connection for at providing the capability of increasing the number of pictures available for recording.

***Allowable Subject Matter / Cited Prior Art***

9. **Claims 2 and 7** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

The closest prior art discloses an image supply device communicating with a printer for printing image information stored on the image supply device where in a case that communication becomes interrupted during the printing operation, the system determines whether or not printing can be restarted based upon power supply consideration of both image supply device and the printer (US 6,464,317 B2; JP 10-250190 A; JP 11-298831 A). The closest prior art also discloses where printer information such as printer model information or manufacturer information can be transmitted to an image supply device to enhance printing operations (US 7,327,482 B2; US 7,286,251 B2).

However, the closest prior art does not disclose or fairly suggest where the determination means determines that recording process can be restarted in a case where at least one of a model name, a manufacturer name, and a vendor name of a recording apparatus coincides with one of a model name, a manufacturer name, and a vendor name of the recording apparatus which has interrupted the recording process.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, David Ometz can be reached on 571.272.7593. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Justin P. Misleh/  
Primary Examiner  
Group Art Unit 2622  
March 24, 2009**